



RESPONSES TO INFORMATION REQUESTS (RIRs)

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Organization Chart	Burundi: status of land disputes and process for recovering property seized by people in power during the genocides; whether Hutus are mistreated by Tutsis when dealing with property issues; obstacles to recovering property and the possibility of restitution		
Employment			
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References	Research Directorate, Immigration and Refugee Board of Canada, Ottawa		
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Refugee Protection Division	<p>Overview of the lands issue</p> <p>According to the United Nations (UN) Development Programme (UNDP), access to land is one of the major causes of conflict in Burundi (UN 20 Mar 2007; see also UN 2005). Some sources report that 80 percent of court cases in Burundi involve land disputes (UN 20 Mar 2007; OAG 18 Apr. 2008; PANA 24 June 2008). A Small Arms Survey report, which quotes the Observer for Armed Violence (Observatoire de la violence armée) established by the UNDP, points out that incidents of armed violence related to land disputes accounted for 5.8 percent of all acts of armed violence committed in Burundi between August 2007 and December 2008 (Small Arms Survey 22 Apr. 2009). Another source states that the land disputes often involve a settling of accounts, since [translation] "the lack of a reliable judicial system" forces Burundians to resort to firearms (L'International Magazine.com 24 Nov. 2008). Other sources report that the high demographic density (PANA 24 June 2008) and the massive influx of returning refugees and internally displaced persons (IDPs) exacerbate land disputes (UN 15 June 2007).</p> <p>An article published by the Rwanda News Agency (RNA) on 21 June 2007 indicates that three groups of people are experiencing land problems: 1972 returnees, 1993 returnees, and internally displaced persons (IDPs). According to the Centre d'alerte et de prévention des conflits (CENAP), a Burundian non governmental organization (NGO) specializing in conflict analysis and prevention, the terms used to refer to victims of the 1993 crisis are usually ethnically based: déplacés [displaced] refers to Tutsis, and réfugiés, rapatriés and dispersés [refugees, returnees, and dispersed people] refer to Hutus (CENAP 5 July 2006). An article published by the International Crisis Group (ICG) on 7 October 2003 reports that [English version] "To one degree or another, all these refugees and displaced persons ... have been the victims of land expropriation."</p> <p>According to the NGO, the Great Lakes Region Human Rights League (Ligue des droits de la personne dans la région des Grands Lacs, LDGL), the property that the refugees and the displaced people abandoned [translation] "have been allotted to other citizens, looted by neighbours who stayed in the country, or confiscated by the state in the name of the public interest" (LDGL 28 Feb. 2007; see also RNA 21</p>		
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June 2007).

According to a UNDP report published in 2005:

[translation]

...the 1993 crisis further complicated the lands issue. Contrary to what took place in 1965 and 1972, land-which was vacated by displaced persons or as a result of the exile of part of the population that went into exile-was most often occupied by relatives. At the time, the settling of political and ethnic accounts often played a role in the confiscation of goods and land. This time around, the Tutsis appropriated the belongings of exiled Hutus, and often did so with the approval of the authorities. The return of the refugees and the displaced persons provoked tensions between them and the occupants of the lands and of other holdings (see also International Crisis Group 7 Oct. 2003).

This source also indicates that [translation] "civilian and military administrators benefit, at times abusively so, from the lands reserved for other purposes or destined for other people" (UN 2005). Some people closely associated with the leadership have been illegally granted state land, while victims of expropriation have not been fairly compensated (ibid.; see also Le Potentiel 11 June 2007). Authorities also allegedly confiscated some properties and illegally expropriated private concessions in the province of Ngozi (Le Potentiel 11 June 2007). Likewise, a human rights observer in Ngozi province stated that [translation] "people lodge complaints with our office that the state has confiscated their belongings without compensation. We go to the scene to find out what is happening and we often discover glaring injustices" (ibid.).

The International Crisis Group notes that Hutu refugees and displaced Tutsis have been [translation] "victims of war profiteers who took advantage of the absence or the death of legitimate landowners to misappropriate their land or to sell it at a profit" (7 Oct. 2003). These profiteers have benefited from corruption in the country's administrative and political structures to misappropriate state lands which could have been used to resettle refugees (ibid.). On that point, the International Crisis Group also wrote:

[English version]

There is scope for both Hutus and Tutsis to engage in a political bidding war over the restitution of land to refugees and displaced persons and over insufficient or late payment of reparations and compensation to expropriated or resettled families.

The foreseeable disappointment of a large number of refugees who will be unable to recover their property offers ideal political opportunities for the one rebel group still not involved in the peace process: Agathon Rwasa's Party for the Liberation of the Hutu People, otherwise known as the National Liberation Forces (Palipehutu-FNL) (7 Oct. 2003).

According to Agnews, the regimes of presidents Micombero, Bagaza and Buyoya allegedly [translation] "killed citizens, extorted land and ... redistributed [this land] for the benefit of dignitaries [and] multinationals," including Andover in 1999, or for their own profit (Agnews 23 May 2006).

A 10 September 2005 announcement concerning the creation of a collective of socio-professional associations for returning exiles suggests that the people who never left [translation] "want all returnees to be considered criminals, outcasts or, at the very least, prodigal sons" (CASPER-UMUNONI 10 Sept. 2005).

Procedures for recovering property and the problems encountered

A UN report states that in July 2006, the Burundi government established a land and other properties commission (Commission nationale des terres et autres biens, CNTB) in order to help reintegrate the returnees and the IDPs (20 Mar. 2007, see also RNA 21 June 2007 and OAG Apr. 2007). According to the LDGL, the CNTB's mandate is to [translation] "resolve land issues between returnees, displaced people and occupants of the land" through dialogue and amiable solutions (28 Feb. 2007). The CNTB is also trying to provide land to people who do not have any (LDGL 28 Feb. 2007). The CNTB's mandate is also to promote peace and reconciliation in the country (ibid.) and ensure that legal texts to reflect [translation] "peaceable conflict resolution practices" (Syfia Grands Lacs 8 June 2007).

According to the Research Group on Policies for Peace (Groupe de recherche en appui aux politiques de paix, GRAPAX), people who were forced to flee after the 1993 massacres usually recover their land and, in situations where the land has been sold to a third party, the sale is null and void (GRAPAX Apr. 2005). However, in a 14 May 2009 telephone interview with the Research Directorate, a representative of the Association of Media from Central Africa (Organisation des médias d'Afrique centrale, OMAC), a non-governmental organisation (NGO) that brings together officials from professional media organizations, freedom of the press organizations, executives from news organizations and professional journalists from Central Africa (OMAC n.d.), remarked that, unlike Hutus, most internally displaced Tutsis who lost their homes and other property in the aftermath of the 1993 crisis were able to recover their belongings because [translation] "they received preferential treatment from the mostly Tutsi authorities" (OMAC 14 May 2009). Because of security concerns, other Tutsis who have not been able to return to their land, particularly in the Hutu-dominated areas near Bujumbura, have been granted other parcels of land by the authorities (ibid.; see also CENAP 5 July 2006).

For their part, the 1972 returnees have encountered more complicated land issues because their lands may have had two lawful owners: one who acquired the land [translation] "by birth" and one who received it [translation] "from the government" (RNA 21 June 2007). According to Refugees International, a Washington, DC-based NGO that provides advice on issues surrounding refugees and displaced persons (Refugees International n.d.), specific legislation is required to resolve these land disputes (1 Oct. 2008).

A report published by the Office of the High Commissioner for Refugees (UNHCR) on 30 June 2008 states that [translation] "the CNTB is dealing with a very high number of land disputes and, despite the fast pace that it is working at, the Commission is not able to handle the disputes within expected timelines". Furthermore, the Commission has limited powers since its decisions can be challenged in the courts, which are already overwhelmed by the number of land disputes (Refugees International 1 Oct. 2008).

An article published on 28 February 2007 by the LDGL, which quotes judges and the Land Code, commented on the obstacles to the recovery of land:

[translation]

returnees are penalized by certain principles, such as [protection of property] (whereby someone who occupies another person's land continues to hold that property until the courts render a decision) and the 30-year provision under section 29 of the land code: [translation] "Anyone who acquires property and occupies it for 30 years acquires it by prescription. The dubious practice of holding property by proxy cannot serve as the basis of this prescription (see also UN 23 Nov. 2006; and RNA 21 June 2007).

According to the RNA, many people make use of this provision of the law to resolve land disputes, although it is not without difficulties of [translation]

"interpretation of the section and of conflict management" (21 June 2007).

Furthermore, [translation] "the coexistence of customary rights and modern rights in land ownership is another cause of numerous conflicts" (PANA 24 June 2008; see also UN 23 Nov. 2006; and Burundi 27 Nov. 2008). In his 27 November 2008 speech at the opening of the workshop on the country's Land Code project, Burundi's President, Pierre Nkurunziza, stated that the existing land code, which dates back to 1986, is no longer suitable for the current reality (Burundi 27 Nov. 2008).

According to the Integrated Regional Information Networks (IRIN), few people know their rights and most of them cannot afford a lawyer (UN 23 Nov. 2006). However, League ITEKA and the international NGO Lawyers Without Borders are providing legal assistance to expropriated landowners to help them recover their property or obtain compensation (Le Potentiel 11 June 2007).

According to Refugees International, the government has committed to building villages for people who have very little recourse and who have not been able to recover their property (1 Oct. 2008). For example, a [translation] "peace village" of 98 homes was built in Muriza, in Ruyigi province, to accommodate "women-headed households" (Refugees International 1 Oct. 2008). This housing program is an [translation] "emergency response" on the part of the government to reintegrate expropriated people who cannot be resettled individually in dispersed rural areas (UN and Burundi 1 Aug. 2008).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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